IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

MFA.No. 694 of 1998(B)

EIC.69/1994 of EMPLOYEES INSURANCE COURT, KOZHIKODE DT. 18.2.1998.
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APPELLANT: RESPONDENT

THE REGIONAL DIRECTOR,
E.S.I. CORPORATION, THRISSUR.

BY ADV. SRI.P.SANKARANKUTTY NAIR

RESPONDENT: APPLICANT

P.ACHUTHANKUTTY,
M/S. ELITE BAKERY PRODUCTS,
CHERUMANNASSERY ROAD,
KALLAI, KOZHIKODE.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 26/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & M.N.KRISHNAN, JJ.

M.F.A.No.694 OF 1998

Dated 26th July, 2007

JUDGMENT

Koshy,J.

This appeal is filed by the Employees' State Insurance Corporation against the decision of the Employees' Insurance Court in E.I.C.69 of 1994. Notice was issued against the respondent contending that his establishment was covered with effect from 12.10.1991 as he has engaged 10 persons in the establishment on that day and power was used for manufacturing process. The demand was challenged by the respondent before the E.I. Court. E.I. Court considered the evidence in detail. Register of wages (Exts.P1 to P5) for the period from 1.10.1991 to 1.10.1996 were produced. Apart from the wage registers, factory licence etc. were also produced. The wage registers were periodically counter signed by Assistant Labour Officer as well as Insurance Inspector. So, they are not concocted documents. Those registers show that he never engaged more than nine persons on any of the working days during the relevant period. According to the Corporation, General Ledger, cash book etc. would show some wage payments on certain dates to carpenters, masons and sweepers. After considering the evidence the E.I. Court found that those payments were made to carpenters, masons etc.

before manufacturing process started and at no point of time more than nine persons were employed. Even notice sent by this court to the respondent was returned stating that the bakery was closed since more than five years. An appeal can be filed against decisions of E.I. Court only if there is a substantial question of law. Here, the decision of the E.I. Court that during the above period the respondent never employed more than nine persons is a finding of fact based on evidence and there is no substantial question of law.

The appeal is dismissed.

J.B.KOSHY
JUDGE

M.N.KRISHNAN
JUDGE

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